

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE

Assigned on Briefs April 18, 2007

**DENNIS JOE STOBAUGH v. KENNETH W. LOCKE, WARDEN**

**Direct Appeal from the Criminal Court for Davidson County**  
**No. 3752 J. Randall Wyatt, Judge**

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**No. M2006-01624-CCA-R3-HC - Filed September 14, 2007**

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The petitioner, Dennis Joe Stobaugh, pro se, appeals the dismissal of his petition for habeas corpus relief. The petitioner remained free on bond for more than seventeen years and now claims “credit for time at liberty.” After careful review, we conclude the petitioner is not entitled to relief and affirm the trial court’s dismissal of his petition for habeas corpus relief.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed**

JOHN EVERETT WILLIAMS, J., delivered the opinion of the court, in which DAVID H. WELLES and ROBERT W. WEDEMEYER, JJ., joined.

Dennis Joe Stobaugh, Nashville, Tennessee, Pro Se.

Robert E. Cooper, Jr., Attorney General and Reporter; Rachel E. Willis, Assistant Attorney General; Victor S. (Torry) Johnson, III, District Attorney General; and Lisa Naylor, Assistant District Attorney General, for the appellee, State of Tennessee.

**OPINION**

In 1985, the petitioner was found guilty by a Sumner County jury of two counts of third degree burglary committed in 1981 and was sentenced to serve ten to twelve years in the Tennessee Department of Correction. His convictions and sentences were affirmed by both the Tennessee Court of Criminal Appeals and Supreme Court. See State v. Shirley Ray Basham, Leonard Ray Casey, Dennis Joe Stobaugh, and Harold Dean Suttle, No. 85-188-III, 1986 Tenn. Crim. App. LEXIS 2840, (Tenn. Crim. App. Nov. 13, 1986).

In May of 1987, the petitioner requested and received a stay of this court’s mandate pending his appeal to the Supreme Court of the United States of America. At that time, the petitioner posted a \$100,000 bond to remain free pending action of the U.S. Supreme Court. The U.S. Supreme Court denied the petitioner’s appeal on October 13, 1987. More than seventeen years later, this court entered an order revoking the petitioner’s bond and ordering that he be taken into custody. Shortly

thereafter, the petitioner was taken into custody and is now serving his sentence in the Department of Correction.

The petitioner filed a pro se petition for habeas corpus relief, seeking “credit for time at liberty,” which the trial court summarily dismissed. The petitioner now appeals. He does not contend that the judgments from Shelby County are void. He merely seeks “credit for time at liberty,” contending that, if given such credit, his sentence has expired and he is entitled to habeas corpus relief. The State argues that a lawfully imposed sentence can only be expired by full service of the sentence either in custody, on probation, or a combination of both.

We conclude that the doctrine of credit for time at liberty is unavailable under Tennessee law and the facts of this case. Here, the petitioner requested and made a \$100,000 appearance bond pending review of his case by the United States Supreme Court. Shortly thereafter, that request for review was denied. Through an inadvertent error, the petitioner remained free on bond for more than seventeen years before this court revoked his bond and ordered that he be taken into custody. During the time the petitioner was free on bond, the record reflects the petitioner did nothing to check the status of his case and never presented himself to proper authorities. Under any theory grounded upon due process, a petitioner must do more than evidenced by this record to be entitled to relief.

This court in State v. Chapman, 977 S.W.2d 122, 127 (Tenn. Crim. App. 1997) proclaimed, “Thus, the doctrine of credit for time at liberty does not exist in Tennessee.” A panel of this court later concluded, “. . . we find no reason to depart from the sound logic and reasoning applied by this court in refusing to adopt the doctrine of credit for time at liberty.” See State v. Terry C. Meadors, No. 01C01-9807-CC-00285, 1999 Tenn. Crim. App. LEXIS 625 at \*7, (Tenn. Crim. App. June 29, 1999, at Nashville). We conclude that the doctrine of credit for time at liberty continues to be inapplicable in Tennessee. Therefore, we affirm the judgment from the trial court.

#### Conclusion

Based on the foregoing and the record as a whole, we affirm the trial court’s dismissal of the petition for habeas corpus relief.

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JOHN EVERETT WILLIAMS, JUDGE